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In re Application of
Kenji Osawa and Haruhiko Makino
Application No. 09/009,248
Filed: January 20, 1998
Attorney Docket No. P972636
Title: LEAD FRAME AND
SEMICONDUCTOR DEVICE HAVING THE
SAME

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OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition filed on January 7, 2002, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

After reviewing the prosecution history, several errors have been detected.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 17, 2000, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 18, 2000.

On May 18, 2001, a petition pursuant to 37 C.F.R. §1.137(b) was filed, along with a Request for Continued Prosecution Application (CPA) which was intended to serve as the reply. This CPA was mistakenly treated as a Request for Continued Examination (RCE), and consequently a Notice of Improper RCE was mailed on July 6, 2001, as no submission accompanied the request. The time period for response continued to run from the final rejection. As no response was received, a notice of abandonment was mailed on August 10, 2001.

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The Examiner, unaware that a Notice of improper RCE and a notice of abandonment had been sent to the applicant, resumed prosecution of the CPA, and issued a fist-action final rejection on November 23, 2001. A response was received on December 31, 2001, and an advisory action was mailed on January 10, 2002.

On January 7, 2002, petitioner filed the instant petition, along with an RCE and a response.

In view of the fact that the CPA filed on May 18, 2001 should not have been treated as an RCE, the Notice of Improper RCE mailed July 6, 2001 was improper, and is hereby **VACATED**.

Similarly, the notice of abandonment, mailed August 10, 2001, was also improper, and is hereby **VACATED**.

As such, this petition is unnecessary and is **DISMISSED AS MOOT**. As it was brought about by an error on the part of the Office, the petition fee will be refunded to petitioner's Deposit Account.

The RCE filed with the instant petition has been entered, and the response filed concurrently is an acceptable submission.

The application file is being forwarded to Technology Center 2800 for processing of both the RCE and the accompanying submission.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Paul Shanoski
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy